

tors of the association may have ready access to it. Any violation of this section shall be punishable by a fine of not less than fifty, and not more than two hundred dollars, or imprisonment in the county jail not less than thirty nor more than sixty days, or both, in the discretion of the court.

Sec. 39. It shall be unlawful for any officer or employe of any bank to certify any check drawn upon such bank unless the person, firm or corporation drawing the check has on deposit with the bank at the time such check is certified, an amount of credit on the depositors' ledger of such bank subject to the payment of such check, equal to the amount specified in such check; but the amount of such check shall not be recoverable from the payee or holder except in the case of fraud. Whenever a check drawn upon any bank is certified by any officer or employe of such bank, the amount thereof shall be immediately charged against the account of the person, firm or corporation drawing the same.

Sec. 40. Any officer or employe of any bank who shall wilfully and knowingly violate any of the provisions of sections 32 and 33 of this act, shall be personally liable under his bond for any loss to the bank resulting therefrom.

Sec. 41. Any bank, which is in good faith winding up its business for the purpose of consolidating with some other bank, may transfer its resources and liabilities to the bank with which it is in process of consolidating but no consolidation shall be made without the consent of the state banking board, nor shall such consolidation operate to defeat the claim of any creditor or hinder any creditor in the collection of his debt against such banks or either of them.

Sec. 42. Any bank may voluntarily liquidate by paying off all its depositors in full, and upon filing a certified statement with the state banking board setting forth the fact that all its liabilities have been paid, and the surrendering of its certificate of authority to transact a banking business, it shall cease to be subject to the provisions of this act; provided, that the state banking board shall cause an examination to be made of any such bank, for the purpose of determining that all its liabilities, except to stockholders, have been paid.

Sec. 43. Any bank may place its affairs and assets under control of the state banking board by posting on its door the following notice: "This bank is in the hands of the state banking board." The posting of such notice, or the taking possession of any bank by the state banking board or by any bank examiner, shall be sufficient to place all of its assets of whatever nature, immediately in the possession of the state banking board, and shall operate as a bar to the levying of attachments or executions thereof, and shall operate to dissolve and release any attachment levied thereon within thirty days next preceding such action.

Sec. 44. For the purpose of providing a guaranty fund for the protection of depositors in banks, every corporation engaged in the business of banking under the laws of this state, shall be subject to assessment, to be levied, kept, collected and applied as hereinafter provided.

Sec. 45. Within thirty days after the taking effect of this act, and on the first day of December, 1909, and on the first day of June and December of each year thereafter, every corporation engaged in banking under the provisions of this act, shall make and file with the state banking board a statement in writing, verified by the oath of its president, vice president or cashier, showing the average daily deposits in its bank for the preceding six months, exclusive of public money otherwise secured. And on the first day of the month next succeeding the date fixed for the making and filing of such statement, the state banking board shall levy assessments against the capital stock of each of said banking corporations as follows: Within sixty days after the taking effect of this act, one-fourth of one per cent of the average daily deposits, as shown by the first statement of such average daily deposits required to be made and filed by the provisions of this section; on the first day of January, 1910, one-fourth of one per cent of the average daily deposits, as shown by the statement required to be made and filed on the first day of December, 1909; on the first day of July, 1910, one-fourth of one per cent of the average daily deposits, as shown by the statement required to be filed on the first day of June, 1910; on the first day of January, 1911, one-fourth of one per cent of the average daily deposits as shown by the statement required to be filed on the first day of December, 1910, and on the first day of July and January of each year thereafter, one-twentieth of one per cent of the average daily deposits, as shown by the statement thereof required to be made and filed next preceding such assessment. Provided, however, that any bank commencing business and receiving deposits less than six months prior to the date when the statement referred to in this section is required to be made and filed, shall show the average daily deposits for that portion of the said semi-annual period during which it has been engaged in business and receiving deposits.

Any person making oath to any of the statements herein required, knowing the same to be false, shall be deemed guilty of a felony, and be punished by a fine of not less than one hundred, nor more than one thousand dollars, or be imprisoned in the penitentiary for a term of not less than one, nor more than five years, or both, in the discretion of the court.

Sec. 45a. Any bank organized subsequent to the date when this act takes effect shall pay into the depositor's guaranty fund four per cent of the amount of the capital stock, when such bank opens for business, which amount shall constitute a credit fund, subject to adjustment on the basis of said bank's average daily deposits, as shown by the first two semi-annual statements required by section 45 of this act. The banking board is authorized and empowered to make such an adjustment of the rates of assessments to be paid by any bank which engages in the banking business subsequent to the time when this act takes effect, as shall require such bank to contribute to the depositors' guaranty fund, a just and equitable sum, and the state banking board shall adjust assessments of such bank so that the first two assessments, together with the credit fund of four per cent of the capital stock paid in by said bank when it begins business, shall at least equal one per cent of the average daily deposits of said bank as shown by the two first semi-annual statements required by section 45 of this act. Provided, however, that said four per cent will not be required of new banks

formed by the re-organization or consolidation of banks that have previously complied with the terms of this act with reference to the payment of assessments.

Sec. 46. As soon as said assessments are respectively levied, the banking corporations against which the same are levied, shall be notified of the amount of such assessment levied against them respectively, by the secretary of the state banking board and said banking corporations shall thereupon set apart, keep and maintain in their said banks the amount thus levied against them and the amounts thus levied, kept and maintained shall be and constitute what shall be designated as a depositors' guaranty fund, payable to the state banking board on demand for the uses and purposes hereinafter provided.

Sec. 47. If the depositors' guaranty fund shall, from any cause, prior to July 1, 1910, be depleted or reduced to an amount less than one-half of one per cent of the average daily deposits, or subsequent to July 1, 1910, be depleted or reduced to an amount less than one per cent of the average daily deposits, as shown by the last semi-annual statement thereof filed, the state banking board shall levy a special assessment against the capital stock of the corporation governed by the provisions of this act, to cover such deficiency, which special assessment shall be based on the said average daily deposits, and, when required for the purpose of immediate payment to depositors, said special assessment may be for any amount not exceeding one per cent of said average daily deposits in any one year.

Sec. 48. Whenever it shall appear to the state banking board, from any examination or report provided for by this act, that the capital of any corporation transacting a banking business under this act is impaired, or that such corporation is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, or upon the failure of such corporation to make any of the reports or statements required by the provisions of said act or to comply with the provisions of said act in all respects, the state banking board shall communicate the facts to the attorney general, who shall thereupon cause an application to be made to the district court of the county where such corporation maintains its bank and is thus conducting its business, or to any judge of such court, for the appointment of a suitable person as receiver to take charge of the business, assets and property of every kind of said corporation and to wind up its affairs. Provided, however, that if the judge or judges of the district court of the county where such application should be made be absent therefrom at the time such application is to be made, any judge of the supreme court may appoint such receiver, but all proceedings in relation to such receivership thereafter shall be had before the district court, or a judge thereof, which might have appointed such receiver in the first instance, and the petition and the order appointing such receiver shall be forthwith transmitted to the clerk of such district court. It shall be sufficient to authorize the appointment of a receiver if any of the facts herein enumerated as a ground for the application for a receiver be made to appear.

Sec. 49. The court or judge, appointing a receiver under the provisions of this act, shall, in the order of appointment, fix the amount of his bond in an amount sufficient to protect all persons interested in the assets and affairs to be administered by such receiver, and the receiver, before entering upon his duties as such receiver, shall give a bond in the amount thus fixed, with sureties to be approved by the clerk of said court, conditioned that he will faithfully and impartially discharge such duties, and well and truly account for all money and property coming into his hands as such receiver, and disburse the same in conforming to the order of such court or judge, and to the provisions of this act. Upon the approval of such bond and the taking of the oath required by law, the person thus appointed shall have full power and authority, as receiver under the provisions of this act.

Sec. 50. After the state banking board, a bank examiner or receiver shall have taken possession of any bank under the provisions of this act, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in condition so that it is qualified to do a general banking business as before it was taken possession of as aforesaid, but such bank shall not be permitted to reopen its business until the state banking board, after careful investigation of its affairs, is of the opinion that its stockholders have complied with the law, that the bank's credit and funds are in all respects repaired and all advances, with interest, fully paid, its reserve restored or sufficiently substituted, and that it should be permitted again to re-open for business; whereupon said state banking board is authorized to issue written permission for re-opening of said bank in the same manner as permission to do business is granted after the incorporation thereof, and thereupon said bank may be re-opened to do business under its charter originally granted under this act. The directors of every banking corporation transacting business under the provisions of this act shall have power and authority to levy and collect assessments on the stock of the banking corporation for the purpose of repairing and restoring the credit of said banking corporation, or to repair and restore any deficiency that may occur by reason of the impairment of the capital stock of said bank.

Sec. 51. As soon as a receiver, appointed under this act, has qualified, which shall be within ten days after his appointment, the court in which such proceedings are pending, or a judge thereof shall make an order fixing the time for filing claims against the corporation whose property is under such receivership, which shall not be more than sixty days from the date of such order, and notice thereof shall be given forthwith, by posting a copy of such order on the front door of the bank, and by publication thereof in some newspaper published in the county, to be designated by the court or judge making such order, for at least three successive weeks prior to the date thus fixed.

Sec. 52. The claims of depositors, for deposits, and claims of holders of exchange shall have priority over all other claims, except federal, state, county and municipal taxes, and subject to such taxes, shall at the time of the closing of the bank be a first lien on all the assets of the banking corporation from which they

are due and thus under receivership, including the liability of stockholders and, upon proof thereof, they shall be paid immediately out of the available cash in the hands of the receiver. If the cash in the hands of the receiver, available for such purpose, be insufficient to pay the claims of depositors, the court in which the receivership is pending, or a judge thereof, shall determine the amount required to supply the deficiency, and cause the same to be certified to the state banking board, which shall thereupon draw against the depositors' guaranty fund in the amount required to supply such deficiency, and shall forthwith transmit the same to the receiver, to be applied on the said claims of depositors. Provided, however, that no part of the depositors' guaranty fund shall be used to supply the deficiency that may accrue by the failure of any bank now transacting business, which bank has not filed the report provided for in section 15, receive the certificate provided for in section 14 and paid the first assessment provided for in section 45.

Such drafts against the depositors' guaranty fund shall be pro-rated, as nearly as may be, among the several solvent banks wherein the same is so as aforesaid kept and maintained, in accordance with the amounts thereof held by such banks respectively.

Sec. 53. To the extent of the amount paid from said guaranty fund to satisfy the claims of creditors the state banking board for the use and benefit of said fund, shall be subrogated to all the right of the creditors' thus paid, to participate in the assets of such bank and the same shall be enforced and collected by the receiver accordingly, and when collected shall be placed in said fund and deposited by the state banking board in the solvent banks subject to the provisions of the depositors' guaranty fund, proportionate as to the several deposits to the assessments levied against each of said banks.

Sec. 54. The court in which such proceedings are pending, or a judge thereof, shall make such other and further orders and enter such judgments as may be necessary or proper to insure a proper administration of such receivership, and a just and equitable distribution of the assets of such banking corporation among its creditors and all others entitled to participate therein, subject to the provisions of this act.

Sec. 55. Any bank examiner, when ordered by the state banking board, or any receiver appointed under the provisions hereof, for the purpose of winding up the affairs of the bank, shall have authority to take possession of any bank to which the order of appointment shall relate, and retain the possession of such bank, its moneys, rights, credits and property of every description, as against any mesne or final process issued by any court against such bank the property of which has been thus taken by such examiner or receiver, and until such time as all of the liabilities of such bank have been fully paid and discharged, and any attachment lien against such property, acquired within thirty days next preceding the taking of such possession by such examiner or receiver as aforesaid, shall be thereby released and dissolved. For each and every day the state bank examiner shall so hold possession, such bank shall pay to the state treasurer, for account of the general fund, a fee of ten (\$10.00) dollars, and for each and every day a receiver shall so hold possession, such bank shall pay such receiver as full compensation for his services a fee of not less than three dollars nor more than ten dollars as may be fixed by the state banking board and in each case, in addition to said amount the necessary clerk hire and attorney fees.

Sec. 56. Whenever any bank refuses or neglects to deliver possession of its affairs, assets or property of whatever nature, to the state banking board, or to the person ordered or appointed to take charge of such bank according to the provisions of this act, the state banking board shall communicate the facts to the attorney general, or to the county attorney of the county wherein such bank is located, who shall thereupon cause an application to be made to the district court or to any judge thereof, having jurisdiction of the same, for an order placing such board, or the person ordered or appointed by it to take charge of such bank, in charge of such bank and its affairs and property; provided, that if the judge of the district court having jurisdiction of the same, shall be absent therefrom at the time such application is to be made, then, and in that case, any judge of the supreme court may grant such order, but the petition and order of possession shall be forthwith transmitted to the clerk of the district court of the county in which such bank is located.

Sec. 57. Every receiver of a bank appointed under the provisions of this act, shall immediately upon taking possession of such bank, proceed to collect all debts, assets and claims belonging to such bank, and, upon order of the district court or judge thereof, may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such bank upon such terms as the court or judge thereof may direct; and may, if necessary, enforce the liabilities of stockholders, officers or directors to such bank; provided, that bad or doubtful debts, as used in this section shall not include the liability of stockholders, officers or directors; and whenever any such receiver shall have paid in full all of the liabilities of such bank, including any liability to the depositors' guaranty fund as herein provided, the funds and assets remaining in his hands, if any, shall be paid and delivered to the party or parties entitled thereto.

Sec. 58. Every receiver appointed under the provisions of this act, shall make to the state banking board not less than one report monthly according to such form as may be prescribed and which shall be verified by his oath.

Sec. 59. The state banking board shall prescribe all such forms as may be useful or necessary in carrying out the provisions of this act, and shall have power to make such rules and regulations, not inconsistent with the provisions of this act, as may be necessary or proper to carry it into effect according to its true intent.

Sec. 60. For the purpose of carrying out the provisions of this act, the state banking board is hereby authorized and empowered to offer and pay out of the depositors' guaranty fund rewards for the apprehension and conviction of any person or persons violating the provisions of this act. Such rewards not to exceed in any case five hundred (\$500.00) dollars.

Sec. 61. Where no other punishment is provided herein, any person violating any of the provisions